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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,014	03/26/2004	David G. Wild	CV0330 NP	9570
26079	7590	11/29/2005	EXAMINER	
BRISTOL-MYERS SQUIBB COMPANY 100 HEADQUARTERS PARK DRIVE SKILLMAN, NJ 08558			THANH, QUANG D	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/811,014	WILD ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Quang D. Thanh	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 March 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
Paper No(s)/Mail Date <u>11/18/04</u>	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Objections***

1. Claim 16 is objected to for failing to further limit the subject matter of a previous claim 3. Claim 16 recites "a monitoring means for monitoring pressure", which appears to be the same as "one pressure sensor" as recited in claim 3. Therefore it is not clear as to what is the scope of the claim 16.
2. Claims 14-15 and 17-18 are objected for failing to further limit the subject matter of a previous claim. These claims appear to merely describe the functional intended use language. This language fails to positively recite any structural limitations over what has already been claimed.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5, 10-11, 16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Morris et al. (6,290,662).

4. Re claims 1- 5 and 16, Morris discloses a compression device for the limb of a mobile patient (fig. 1) comprising: an inflatable sleeve 102/106/108 (fig. 1) adapted to surround the limb; a conduit 122 (fig. 1) attached to said sleeve for delivering fluid to said sleeve; and a portable, wearable controller 120 (fig. 1, col. 3, lines 45-50) attached to said conduit that generates and controls the flow of fluid in the device; wherein said controller comprises a microprocessor control system (col. 4, lines 64-67) and a pump 204 (compressor, col. 3, lines 53-55); wherein at least one pressure sensor 206 (or pressure monitoring means) is associated with said sleeve ; wherein said sleeve includes one inflatable cell 102 (fig. 1); wherein said sleeve is low profile and discrete (fig. 1, col. 6, lines 17-20)

5. Re claims 10-11 and 18, Morris discloses the controller is battery operated (col. 4, lines 1-6); wherein each cell is monitored by a sensor 206 (fig. 1); and the use of the compression device in the prevention or treatment of edema or DVT (col. 6, lines 10-13).

6. Claims 1-7, 9-13, 16, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Barak et al. (6,494,852).

7. Re claims 1-7 and 16, Barak discloses a compression device for the limb of a mobile patient (fig. 1) comprising: an inflatable sleeve 1 (fig.2) adapted to surround the limb; a conduit 4 attached to said sleeve for delivering fluid to said sleeve; and a portable, wearable controller 3 (fig. 1) (or control unit 68, col. 6, lines 63-67) attached to said conduit that generates and controls the flow of fluid in the device wherein said

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controller comprises a microprocessor control system (control unit 68, col. 6, lines 63-67) and a pump (pump unit 60, col. 6, lines 22-33); wherein at least one pressure sensor 62/63 or pressure monitoring means (col. 6, lines 37-38) is associated with said sleeve ; wherein said sleeve includes one or more individually inflatable cells 2 (fig. 2); wherein said sleeve is low profile and discrete (fig. 1); wherein said sleeve includes a leg cuff and a foot cuff (fig. 2); said leg and foot cuffs are anatomically shaped to provide compression on those parts of the leg or foot which have the greatest effect on blood flow (best seen in fig. 2).

8. Re claims 9-13 and 18, Barak discloses said leg cuff includes at least three cells 2 (best seen in fig. 2); wherein said controller is battery operated (rechargeable battery pack 67, col. 6, lines 26-28); wherein each cell is monitored by a sensor 62/63 (col. 6, lines 37-38); wherein said cells include a gaiter cell 2 adapted to wrap around the lower limb in the region closest to the ankle, a mid-calf cell 2 adapted to wrap around the lower limb above the region occupied by the gaiter cell and an upper cell 2 adapted to wrap around the lower limb in the region between the mid-calf cell and the knee (best seen in fig. 2); and the use of the compression device in the prevention or treatment of edema or DVT (col. 2, lines 42-49).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Byars et al. (4,054,129) in view of Barak. Byars discloses a compression device for the limb of a mobile patient (fig. 1) comprising: an inflatable sleeve (pocket containing bladder B as shown in figs. 2, and 4-5) adapted to surround the limb; a conduit 23 (fig. 1) attached to said sleeve for delivering fluid to said sleeve; and a portable controller 26 (fig. 1) attached to said conduit that generates and controls the flow of fluid in the device, and a sock 10 interposed between the sleeve and the limb (figs. 4-5), except for the controller being wearable. Barak teaches a similar device having a controller 3 that is portable and wearable such that the device can be used in ambulant patients (fig. 1). Further more, since Byars already teaches that the device is light weight and comfortable for wear by either bed or ambulant patients (col. 4, line 66 to col. 5, line 1), therefore it would have been obvious to one of ordinary skill in the art at the time of invention was made to further modify the Byars' device, such that the controller is wearable, as suggested by Barak et al., for the purpose of providing an ambulatory device having a portable and wearable controller that would allow the patient to undergo therapy while still able to perform daily activities.

11. Claims 14-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barak. Barak discloses the claimed inventions having all the features except it is silent regarding the cells may be pressurized to the same or different predetermined

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pressures and increased when the patient stands. However, Barak teaches (fig. 5) a pressure system 50 that has a range of pressure of 50-100 mmHg, and therefore it would have been obvious to one of ordinary skill in the art at the time of invention was made to operate the Barak's pressure system, such that the cells may be pressurized to the same or different predetermined pressures, and increased when the patient stands, for the purpose of providing a variety of compression therapy being applied on different body parts of the patient suitable to the patient's condition.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang D. Thanh whose telephone number is (571) 272-4982. The examiner can normally be reached on Monday-Thursday & alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (571) 272-4887. The Central FAX phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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